

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

VICTOR MATOS

v.

MARILYN BROOKS, ET AL

No.C.A.05-11 ERIE

MOTION FOR DEFAULT JUDGMENT

AND NOW, this 14th day of July 2005, comes the petitioner Victor Matos, in propria personam who moves this Court for a default judgment and in support thereof respectfully represents:

1. He is the petitioner in the above captioned matter.

2. On February 8, 2005 This Court ordered that service be made upon the respondents and that an answer shall be filed by respondents within 20 days of service.

3. Petitioner contends that respondent District Attorney of Lehigh County who was ordered by this Court to file an answer within 20 days of service did accept service on 3-21-05 as evidenced by the attached exhibit "A", copies of the signed certified mail cards accepting service by all 3 respondents.

4. Petitioner contends that over 3 and one half months have passed since respondents have accepted service and to date no answer or other pleading has been filed by the respondents nor have they requested an extension of time.

5. Petitioner avers that none of the respondents are in the military service or physically unable to respond to the petition as ordered by the court.

6. Petitioner contends that by failing to file a timely response as ordered, respondents have waived any response or pleading they may have had.

7. Petitioner contends that the appropriate remedy is for this Court to grant the petition for writ of habeas corpus as filed.

WHEREFORE, Petitioner prays this Court to grant the relief requested herein.

Respectfully Submitted,



Victor Matos, Petitioner

CERTIFICATE OF SERVICE

I, Victor Matos, do hereby certify that I have served a true and correct copy of the foregoing by placing same in the US Mail, first class postage paid and addressed as follows:

James B. Martin, ESQ. District Attorney  
455 W. Hamilton St.  
Allentown, Pa. 18101

Marilyn Brooks  
10745 rt. 18  
Albion, Pa. 16475-0001

Office of the Atty. General  
564 Forbes Ave., 6th Fl.  
Pittsburgh, Pa. 15219

Respectfully Submitted,

*Victor Matos*

Victor Matos, DF-7713  
10745 Rt. 18  
Albion, Pa. 16475-0002

Date: 7-14-05

7160 3901 9842 6648 8325

US Postal Service  
**Certified  
 Mail  
 Receipt**  
*Domestic Mail Only  
 No Insurance  
 Coverage Provided*

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 15.00

Postmark  
Here

Sent To:  
**MARILYN BROOKS, WARDEN**  
 SCI ALBION  
 1-745 ROUTE 18  
 ALBION, PA. 16475-0001

06/30/05 SERVICE FOR MARILYN  
 BROOKS RETURNED UNEXECUTED.  
 AS OF THIS DATE NEITHER THE GREEN  
 CERTIFIED CARD OR PACKAGE HAVE  
 BEEN RETURNED BY THE POSTAL  
 SERVICE.

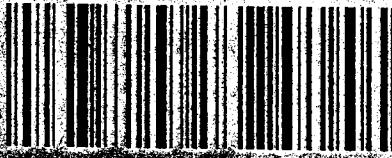
5-11E, O/P, 3/15/05, SRB

PS Form 3800, January 2003

US Postal Service

Certified Mail Receipt

2. Article Number:



7160 3901 9842 6648 8325

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) *Glenda Cleaver* B. Date of Delivery *3/16/05*

C. Signature *X* D. Is delivery address different from item 1?  Yes  No

1. Article Addressed to:

**ATTORNEY GENERAL, COMMONWEALTH OF PA**  
**564 FORBES AVENUE**  
**6TH FLOOR, MADISON BLDG**  
**PITTSBURGH, PA. 15219**

5-11E, O/P, 3/15/05, SRB

PS Form 3811, January 2003

Domestic Return Receipt

2. Article Number:



7160 3901 9842 6648 8349

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) *A* B. Date of Delivery *3/21/05*

C. Signature *X* D. Is delivery address different from item 1?  Yes  No

1. Article Addressed to:

**ATTORNEY GENERAL, COMMONWEALTH OF PA**  
**564 FORBES AVENUE**  
**6TH FLOOR, MADISON BLDG**  
**PITTSBURGH, PA. 15219**

5-11E, O/P, 3/15/05, SRB

PS Form 3811, January 2003

Domestic Return Receipt

exhibit "A"

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

VICTOR MATOS, )  
Petitioner, )  
                  )  
                  )  
vs.              ) C.A. No. 05-11 ERIE  
                  )  
                  )  
MARILYN BROOKS, )  
Respondent.     )

RULE AND ORDER

AND NOW, this 8th day of February, 2005, after Victor Matos presented a petition for a writ of habeas corpus,

IT IS ORDERED that the United States Marshal shall make service of this order, together with a copy of the petition, upon the Respondent, the District Attorney of Lehigh County, Pennsylvania, and the Attorney General of the Commonwealth of Pennsylvania.

IT IS FURTHER ORDERED that within twenty days of service of this order, the respondent, and the District Attorney of Lehigh County, Pennsylvania shall respond to the allegations of the petition for writ of habeas corpus. The District Attorney shall address all of the following 1) the statute of limitations, 28 U.S.C. § 2254(d)(1)-(2);<sup>1</sup> 2) the exhaustion of state court remedies as required by 28 U.S.C. §§ 2254(b) and Picard v. Connor, 404 U.S. 270 (1971); Rose v. Lundy, 455 U.S. 509 (1982); United States ex. rel. Trantino v. Hatrack, 563 F.2d 86 (3d Cir. 1977); Zicarelli v. Gray, 543 F.2d 466 (3d Cir. 1976), with respect to each claim raised by

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1. If Respondents are certain that AEDPA's Statute of Limitations does not apply, they need not address this issue. However, failure to address this issue may result in waiver of this defense.